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COMMITTEE ON THE RIGHTS OF THE CHILD

Eighth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: United Kingdom of Great Britain and Northern Ireland

1. The Committee considered the initial report of the United Kingdom of Great Britain and Northern Ireland (CRC/C/11/Add.1) at its 204th, 205th and 206th meetings (CRC/C/SR.204-206), held on 24 and 25 January 1995, and adopted* the following concluding observations.

A. Introduction

2. The Committee appreciates the opportunity to engage in a constructive dialogue with the State party and welcomes the timely submission by the Government of the written responses to the Committee's list of issues (see CRC/C.7/WP.1). The Committee welcomes the additional oral information provided by the delegation of the State party which greatly assisted in clarifying many of the issues raised by the Committee. The additional oral information was particularly useful, in view of the Committee's observation that the initial report of the State party lacked sufficient information on the factors and difficulties impeding the implementation of various rights provided for in the Convention.

* At the 208th meeting, held on 26 January 1995.

B. Positive aspects

3. The Committee takes note of the adoption by the State party of a Children's Act applicable to England and Wales. The Committee also observes that the State party has extended the application of the Convention to many of its dependent territories. The Committee welcomes the intention of the State party to consider withdrawing the reservation it made to article 37 of the Convention as it relates to the procedures governing children's hearings in Scotland.

4. Moreover, the Committee welcomes the initiatives being taken by the State party to reduce the incidence of Sudden Infant Death Syndrome and to combat the problem of bullying in school. In addition, the Committee is encouraged by the steps taken to address the issue of the sexual abuse of children, including through the development of the "Working Together" initiative which advocates and promotes an interdisciplinary approach to addressing this serious problem.

5. The Committee welcomes the information it received concerning the commitment of the Government to review its legislation in the area of the employment of children and to present new legislation in matters relating to the family, domestic violence and disability. Likewise, the Committee welcomes the measures being taken to pass further legislation in the area of adoption, including the intention of the Government to ratify the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. The Committee takes note of the Code of Practice for Children with Special Educational Needs which has statutory force and has been developed within the framework of the 1993 Education Act.

6. The Committee takes note of the Government's commitment to extend the provision of pre-school education. The Committee is equally appreciative of the recent initiative taken by the State party to require local authorities, in conjunction with health authorities and non-governmental organizations, to draw up Children's Service Plans.

C. Principal subjects of concern

7. The Committee is concerned about the broad nature of the reservations made to the Convention by the State party which raise concern as to their compatibility with the object and purpose of the Convention. In particular, the reservation relating to the application of the Nationality and Immigration Act does not appear to be compatible with the principles and provisions of the Convention, including those of its articles 2, 3, 9 and 10.

8. The Committee remains unclear about the extent to which an effective coordinating mechanism exists for the implementation of the Convention on the Rights of the Child. It is concerned whether sufficient consideration has been given to the establishment of mechanisms, including of an independent nature, to coordinate and monitor the implementation of the rights of the child.

9. With respect to article 4 of the Convention, the Committee is concerned about the adequacy of measures taken to ensure the implementation of economic, social and cultural rights to the maximum extent of available resources. It appears to the Committee that insufficient expenditure is allocated to the social sector both within the State party and within the context of international development aid; the Committee wonders whether sufficient consideration has been given to the enjoyment of fundamental rights by children belonging to the most vulnerable groups in society.

10. The Committee notes that the initial report of the State party contains little information on the difficulties experienced by children living in Northern Ireland and the effect on children of the operation of emergency legislation there. The Committee is concerned about the absence of effective safeguards to prevent the ill-treatment of children under the emergency legislation. In this connection, the Committee observes that under the same legislation it is possible to hold children as young as 10 for 7 days without charge. It is also noted that the emergency legislation which gives the police and the army the power to stop, question and search people on the street has led to complaints of children being badly treated. The Committee is concerned about this situation which may lead to a lack of confidence in the system of investigation and action on such complaints.

11. The Committee is concerned about the apparent insufficiency of measures taken to ensure the implementation of the general principles of the Convention, namely the provisions of its articles 2, 3, 6 and 12. In this connection, the Committee observes in particular that the principle of the best interests of the child appears not to be reflected in legislation in such areas as health, education and social security which have a bearing on the respect for the rights of the child.

12. With regard to article 2 of the Convention relating to non-discrimination, the Committee expresses its concern at the insufficient measures undertaken to ensure its implementation. In particular, it is concerned about the possible adverse effects on children of the restrictions applied to unmarried fathers in transmitting citizenship to their children, in contradiction of the provisions of articles 7 and 8 of the Convention. In addition, the Committee is concerned that children of certain ethnic minorities appear to be more likely to be placed in care.

13. Furthermore, in the light of article 6 of the Convention, the Committee expresses its concern at the health status of children of different socio-economic groups and those belonging to ethnic minorities.

14. In relation to the implementation of article 12, the Committee is concerned that insufficient attention has been given to the right of the child to express his/her opinion, including in cases where parents in England and Wales have the possibility of withdrawing their children from parts of the sex education programmes in schools. In this as in other decisions, including exclusion from school, the child is not systematically invited to express his/her opinion and those opinions may not be given due weight, as required under article 12 of the Convention.

15. The Committee notes with concern the increasing number of children living in poverty. The Committee is aware that the phenomenon of children begging and sleeping on the streets has become more visible. The Committee is concerned that the changed regulations regarding benefit entitlements to young people may have contributed to the increase in the number of young homeless people. The rate of divorce and the number of single-parent families and teenage pregnancies in the State party are noted with concern. These phenomena raise a number of issues, including as regards the adequacy of benefit allowances and the availability and effectiveness of family education.

16. The Committee is disturbed about the reports it has received on the physical and sexual abuse of children. In this connection, the Committee is worried about the national legal provisions dealing with reasonable chastisement within the family. The imprecise nature of the expression of reasonable chastisement as contained in these legal provisions may pave the way for it to be interpreted in a subjective and arbitrary manner. Thus, the Committee is concerned that legislative and other measures relating to the physical integrity of children do not appear to be compatible with the provisions and principles of the Convention, including those of its articles 3, 19 and 37. The Committee is equally concerned that privately funded and managed schools are still permitted to administer corporal punishment to children in attendance there which does not appear to be compatible with the provisions of the Convention, including those of its article 28, paragraph 2.

17. The administration of the juvenile justice system in the State party is a matter of general concern to the Committee. The low age of criminal responsibility and the national legislation relating to the administration of juvenile justice seem not to be compatible with the provisions of the Convention, namely articles 37 and 40.

18. The Committee remains concerned about certain of the provisions of the Criminal Justice and Public Order Act 1994. The Committee notes that its provisions provide, inter alia, for the possibility of applying "secure training orders" on children aged 12 to 14 in England and Wales. The Committee is concerned about the compatibility of the application of such secure training orders on young children with the principles and provisions of the Convention in relation to the administration of juvenile justice, particularly its articles 3, 37, 39 and 40. In particular, the Committee is concerned that the ethos of the guidelines for the administration and establishment of Secure Training Centres in England and Wales and the Training Schools in Northern Ireland appears to lay emphasis on imprisonment and punishment.

19. The Committee is equally concerned that children placed in care under the social welfare system may be held in Training Schools in Northern Ireland and may be placed in the future in Secure Training Centres in England and Wales.

20. The Committee is also concerned that The Criminal Evidence (N.I.) Order 1988 appears to be incompatible with article 40 of the Convention, in particular with the right to presumption of innocence and the right not to be compelled to give testimony or confess guilt. It is noted that silence in

response to police questioning can be used to support a finding of guilt against a child over 10 years of age in Northern Ireland. Silence at trial can be similarly used against children over 14 years of age.

21. The situation of Gypsy and Traveller children is a matter of concern to the Committee, especially with regard to their access to basic services and the provision of caravan sites.

D. Suggestions and recommendations

22. The Committee wishes to encourage the State party to consider reviewing its reservations to the Convention with a view to withdrawing them, particularly in light of the agreements made in this regard at the World Conference on Human Rights and incorporated in the Vienna Declaration and Programme of Action.

23 The Committee would like to suggest that the State party consider establishing a national mechanism for the purpose of coordinating the implementation of the Convention, including between governmental departments and between central and local governmental authorities. Furthermore, the Committee suggests that the State party establish a permanent mechanism for the monitoring of the Children's Act and the Convention on the Rights of the Child throughout the United Kingdom. It is further suggested that ways and means be established to facilitate regular and closer cooperation between the Government and the non-governmental community, particularly with those non-governmental organizations closely involved in monitoring the respect for the rights of the child in the State party.

24. With regard to the implementation of article 4 of the Convention, the Committee would like to suggest that the general principles of the Convention, particularly the provisions of its article 3, relating to the best interests of the child, should guide the determination of policy-making at both the central and local levels of government. This approach is of relevance to decisions taken about the allocation of resources to the social sector at the central and local governmental levels, including with regard to the allocation of benefits to children who have completed compulsory schooling and have no full-time employment. The Committee notes the importance of additional efforts to overcome the problems of growing social and economic inequality and increased poverty.

25. With regard to matters relating to the health, welfare and standard of living of children in the United Kingdom, the Committee recommends additional measures to address, as a matter of priority, problems affecting the health status of children of different socio-economic groups and of children belonging to ethnic minorities and to the problems of homelessness affecting children and their families.

26. The Committee recommends that in line with the provisions of article 42 of the Convention, the State party should undertake measures to make the provisions and principles of the Convention widely known to adults and children alike. It is also suggested that teaching about children's rights

should be incorporated into the training curricula of professionals working with or for children, such as teachers, the police, judges, social workers, health workers and personnel in care and detention institutions.

27. The Committee would like to suggest that greater priority be given to incorporating the general principles of the Convention, especially the provisions of its article 3, relating to the best interests of the child, and article 12, concerning the child's right to make their views known and to have these views given due weight, in the legislative and administrative measures and in policies undertaken to implement the rights of the child. It is suggested that the State party consider the possibility of establishing further mechanisms to facilitate the participation of children in decisions affecting them, including within the family and the community.

28. The Committee recommends that race relations legislation be introduced in Northern Ireland as a matter of urgency and is encouraged by the information presented by the delegation of the State party regarding the Government's intention to follow up on this matter.

29. The Committee would also like to suggest that a review be undertaken of the nationality and immigration laws and procedures to ensure their conformity with the principles and provisions of the Convention.

30. The Committee recommends that further measures be undertaken to educate parents about their responsibilities towards their children, including through the provision of family education which should emphasize the equal responsibilities of both parents. While recognizing that the Government views the problem of teenage pregnancies as a serious one, the Committee suggests that additional efforts, in the form of prevention-oriented programmes which could be part of an educational campaign, are required to reduce the number of teenage pregnancies.

31. The Committee is also of the opinion that additional efforts are required to overcome the problem of violence in society. The Committee recommends that physical punishment of children in families be prohibited in the light of the provisions set out in articles 3 and 19 of the Convention. In connection with the child's right to physical integrity, as recognized by the Convention, namely in its articles 19, 28, 29 and 37, and in the light of the best interests of the child, the Committee suggests that the State party consider the possibility of undertaking additional education campaigns. Such measures would help to change societal attitudes towards the use of physical punishment in the family and foster the acceptance of the legal prohibition of the physical punishment of children.

32. With regard to matters relating to education, the Committee suggests that children's right to appeal against expulsion from school be effectively ensured. It is also suggested that procedures be introduced to ensure that children are provided with the opportunity to express their views on the running of the schools in matters of concern to them. Further, the Committee recommends that the training curricula of teachers should incorporate education about the Convention on the Rights of the Child. It is recommended that teaching methods should be inspired by and reflect the spirit and philosophy of the Convention, in the light of the general principles of the

Convention and the provisions of its article 29. The Committee would also like to suggest that the State party consider the possibility of introducing education about the Convention on the Rights of the Child into school curricula. Legislative measures are recommended to prohibit the use of corporal punishment in privately funded and managed schools.

33. The Committee also suggests that the State party provide further support to the teaching of the Irish language in schools in Northern Ireland and to integrated education schooling.

34. The Committee recommends that the emergency and other legislation, including in relation to the system of administration of juvenile justice, at present in operation in Northern Ireland should be reviewed to ensure its consistency with the principles and provisions of the Convention.

35. The Committee recommends that law reform be pursued in order to ensure that the system of the administration of juvenile justice is child-oriented. The Committee also wishes to recommend that the State party take the necessary measures to prevent juvenile delinquency as set down in the Convention and complemented by the Riyadh Guidelines.

36. More specifically, the Committee recommends that serious consideration be given to raising the age of criminal responsibility throughout the areas of the United Kingdom. The Committee also recommends the introduction of careful monitoring of the new Criminal Justice and Public Order Act 1994 with a view to ensuring full respect for the Convention on the Rights of the Child. In particular, the provisions of the Act which allow for, inter alia, placement of secure training orders on children aged between 12 and 14, indeterminate detention, and the doubling of sentences which may be imposed on 15- to 17-year-old children should be reviewed with respect to their compatibility with the principles and provisions of the Convention.

37. Within the context of the law reform being considered with regard to matters relating to the employment of children, the Committee expresses the hope that the State party will consider reviewing its reservation with a view to its withdrawal. Similarly, the Committee expresses the hope that the Government may consider the possibility of becoming a party to ILO Convention No. 138.

38. The issues of sexual exploitation and drug abuse as they affect children should also be addressed on an urgent basis, including with regard to the undertaking of further measures to prevent them.

39. The Committee is of the view that the implementation of the provisions of article 39 of the Convention deserves greater attention. Programmes and strategies should be developed to ensure that measures are in place to promote the physical and psychological recovery and social reintegration of a child victim of, inter alia, neglect, sexual exploitation, abuse, family conflict, violence, drug abuse, as well as of children in the system of administration of justice. Such measures should be applied within the national context but also within the framework of international cooperation.

40. In addition, the Committee recommends pro-active measures for the rights of children belonging to Gypsy and Traveller communities, including their right to education, and that a sufficient number of adequately appointed caravan sites for these communities be secured.

41. The Committee also recommends that information on the implementation of the Convention in the dependent territory of Hong Kong be submitted to the Committee by 1996.

42. The Committee encourages the State party to disseminate widely the State party report, summary records of the discussion of the report within the Committee and the concluding observations adopted by the Committee following its consideration of the report. The Committee would like to suggest that these documents be brought to the attention of Parliament and that the suggestions and recommendations for action contained therein be followed up. In this regard, the Committee suggests that closer cooperation with non-governmental organizations be pursued.